

THE EASTERN CARIBBEAN SUPREME COURT
COURT OF APPEAL SITTING

CHAMBER HEARING
TUESDAY 23rd SEPTEMBER 2025

MATTERS DEALT WITH ON PAPER

Case Name: Sir McLean Emanuel
Applicant
and
Anthony Ivor Emanuel
Judy Alison Sandra Mc Coy
Respondents
[ANUHCVP2024/0021]
(Antigua and Barbuda)

Date: Tuesday 23rd September 2025

Before: The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

On paper:

Applicant: Jan Peltier

Respondents: Wendel Alexander

Issue: Application for extension of time to file appeal

Result/Order:

IT IS HEREBY ORDERED THAT:

The application is dismissed.

Reason:

The Court considered: (i) rule 26.1(2)(k) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that the court may extend or shorten the time for compliance with any rule, practice direction, order or direction of the court even if the application for an extension is made after the time for compliance has passed.

The Court also considered the principles upon which an extension of time is granted as enunciated in *Carleen Pemberton v Mark Brantley SKBHCVAP2011/0009* (delivered 14th October 2011, unreported) and *John Cecil Rose v Anne Marie Uralis Rose SLUHCVAP2011/0013* (delivered 22nd September 2003, unreported).

These principles are the length of the delay; the reasons for the delay; the chances of the appeal succeeding if the extension of time is granted; and the degree of prejudice if the application is granted.

Additionally, the Court considered rule 62.13(5) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which requires a respondent(s) to file written submissions in opposition to the appeal within 14 days of receipt of the notice of appeal.

The Court noted that the respondents had not complied with the order made on 29th July 2025 to file written submissions in support of their notice of opposition filed one year ago on 26th August 2024.

The Court was of the view that the respondents had been given sufficient time to comply with its order made on 29th July 2025 and that no application for an extension of time to so comply has been filed by the respondents.

The Court was also of the view that the substantive application for leave to appeal concerns an unless

order made on 20th February 2024 in the court below which the applicant has not complied with and that the application for extension of time to seek leave to appeal the Order of Justice Renee Williams dated 5th July 2024 is without merit and ought to be dismissed.

Case Name:

- 1. Lucia Toussaint**
- 2. Alana McPherson**
- 3. Sekai Myster Nkozi**

Applicants

and

Gildon Richards

Respondent

[Commonwealth of Dominica]

(DOMHCVAP2025/0009)

Date: **Tuesday 23rd September 2025**

Before: **The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]**

On paper:

Applicants: **Stephen Isidore**

Respondent: **N/A**

Issue: **Application for leave to appeal an interlocutory order**

Result/Order: **IT IS HEREBY ORDERED THAT:**

- 1. The application for leave to appeal the interlocutory order of Jawara Alami, J dated 2nd June 2025 is granted.**
- 2. The applicants shall file and serve the notice of appeal within 21 days of the date of this order.**

3. Thereafter, the appeal shall proceed in accordance with the Civil Procedure Rules (Revised Edition) 2023.

Reason:

The Court considered: (i) rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 which states that leave to appeal may be given only where – (a) the court considers that the appeal would have a realistic prospect of success; or (b) there is some other compelling reason why the appeal should be heard.

The Court also considered the principles for the grant of leave to appeal as stated in *Othneil Sylvester v Faelleseje Civil Appeal No. 5 of 2005 (delivered 20th February 2006, unreported)* and in *Cage St. Lucia Limited v Treasure Bay (St. Lucia) Limited Saint Lucia Civil Appeal No. 45 of 2011 (delivered 23rd January 2012, unreported)* most notably that the applicant must show that the intended appeal has a realistic prospect of success, which is a heavier burden than showing only that he has an arguable appeal.

The Court was of the view that the applicants have satisfied the threshold for a grant of leave to appeal.

Case Name:

Corrine Clara

Applicant

and

Mable Phillips

**(acting through Nancy McKenzie Greene as
Executrix substituted by order 20th May 2019)**

Respondent

**[Grenada]
(GDAHCVAP2025/0011)**

Date:

Tuesday 23rd September 2025

Before: The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

On paper:

Applicant: Deloni Edward

Respondent: In Person
(acting through Nancy McKenzie Greene as Executrix substituted by order 20th May 2019)

Issue: Application for leave to appeal an interlocutory order

Result/Order: IT IS HEREBY ORDERED THAT:

The application is adjourned for an oral hearing to be conducted before the Full Court on a date to be fixed by the Chief Registrar.

Reason: The Court considered: (i) rule 62.2(8) of the Civil Procedure Rules (Revised Edition) 2023 which states that leave to appeal may be given only where – (a) the court considers that the appeal would have a realistic prospect of success; or (b) there is some other compelling reason why the appeal should be heard; (ii) rule 62.2(7) which states that is the judge considering an application under rule 62.2(5) is minded to refuse the application for leave, the judge must direct (a) that an oral hearing be fixed and (b) whether that oral hearing is to be by a single judge or the court.

The Court being minded to refuse the application for leave to file an interlocutory appeal and accordingly adjourned the application for hearing before the Full Court.

Case Name: Eurana Jean Herbert-Walters

Applicant

and

Carla Hendrickson Martin

Respondent

**[Saint Christopher and Nevis]
(SKBHCVAP2025/0001)**

Date: Tuesday 23rd September 2025

Before: The Hon. Mr. Gerard Farara, Justice of Appeal [Ag.]

On paper:

Applicant: Leon Charles

Respondent: Zenitaa Singh

Issue: Application for leave to appeal

Result/Order: IT IS HEREBY ORDERED THAT:

1. The respondent shall comply with the order of Court dated 29th July 2025 to file written submissions in response to the application for a stay within 7 days of this order.
2. The application for a stay pending determination of the appeal is set down for further consideration at the next Chamber Sitting of this Court scheduled for 21st October 2025.

Reason: The Court noted that the respondent had not complied with the order dated 29th July 2025 to file submissions in response to the application for a stay of proceedings within 14 days of the date of that order.

The Court had regard to the principles for the grant of a stay pending appeal as outlined in the authorities *Wenden Engineering Service Co. Ltd v Lee Shing UEY Construction Co Ltd HCCT No. 90 of 1999*, *C-Mobile Services Limited v Huawei Technologies Co. Limited BVIHCMAP2014/0017 (delivered 2nd*

October 2014) and Michael James v Tasman Gaming Inc et al Civil Appeal No. 6 of 2006 (delivered 8th February 2007, unreported) that –

- i. The court should take into account all the circumstances of the case;**
- ii. A stay is the exception rather than the general rule;**
- iii. The party seeking a stay must provide cogent evidence that the appeal will be stifled or rendered nugatory unless a stay is granted;**
- iv. In exercising its discretion, the court applies what is in effect a balance of harm test in which the likely prejudice to the successful party must be carefully considered; and**
- v. The prospect of the appeal succeeding, but only where strong grounds of appeal or a strong likelihood the appeal will succeed is shown.**